Group A:	The species of Fig. 1 (At least claims 1-3, 9, 20-22, 24-25, 33-34, 40-41, 43);
Group B:	The species of Fig. 2 (At least claims 1-8, 11, 12, 18-22, 24-25, 33-36, 40-41, 43-44);
Group C:	The species of Fig. 3 (At least claims 1-8, 10, 11, 18-22, 24-25, 33-34, 40-41, 43);
Group D:	The species of Fig. 4 (At least claims 9, 13, 14, 16, 23, 26, 29, 30);
Group E:	The species of Fig. 5 (At least claims 9, 15);
Group F:	The species of Fig. 6 (At least claims 1, 3-8, 17, 20, 24, 33-34, 40);
Group G:	The species of Fig. 7 (At least claims 1, 3, 20, 24, 26-29, 31-33-34, 37-40, 43);
Group H:	The species of Fig. 8 (At least claims 1, 3, 20, 24, 26-28, 31, 33-34, 37-40, 43);
Group I:	The species of Fig. 9 (At least claim 42); and,
Group J:	The species of Fig. 10 (At least claim 23);

Traverse and Provisional Election

In response to the restriction requirement, Applicant respectfully traverses the restriction requirement and request that the requirement be withdrawn.

Pursuant to M.P.E.P. § 803, a restriction requirement is proper only if (1) the inventions are independent or distinct as claimed, and (2) there would be a serious burden on the Examiner if the restriction is not required. Here, although the Figures of Groups A-J pertain to patentably distinct species of inventions, each group relates to a medical treatment apparatus that delivers controlled medical treatments to a patient based on sensing physiological and/or environmental conditions. Because each of the species pertains to medical devices that control medical treatments based on physiological and/or environmental conditions, Applicant submits that the same classes and subclasses would be searched for each group. Thus, there would not be a serious burden on the Examiner if the restriction is not required.

For example, the species of Figures 1, 2 and 3 each incorporate: (A) a control algorithm 26, (B) they each process the signal in the control algorithm 30, and (C) they each develop a feedback control 32. One difference, however, between Figure 1 and Figure 2 is that the embodiment of Figure 2 requires components/steps A-C to be incorporated in a controller 28, while the embodiment of Figure 1 may or may not have a controller. Similarly, one difference between the embodiment of Figure 3 and Figures 1 and 2, is that the embodiment of Figure 3 requires components/steps A-C to be incorporated in the medical device 12. Accordingly, while these claims are patentably distinct, the core patentable components are present in each of these embodiments, and therefore a search of these core components would be identical for each of these Figures. This is identified in the specification, which discloses:

> As shown in FIG. 1, one embodiment of the medical treatment administration system 10 includes a medical device 12, a control algorithm 26 coupled to the medical device 12, and a sensor 16 coupled to the patient 18. (Page 6, lines 27-29.)
>
> Also as shown in FIG. 1, sensor 17 may be provided in addition to, or in substitution of, sensor 16. Sensor 17 obtains information concerning the environment of the patient 18. (Page 8, lines 26-27.)
>
> The signal received from the sensor 16, 17 is electrically transferred to a control algorithm 26. As shown in FIGS. 2, 3 and 6, the control algorithm 26 may be a part of the controller 28 (also referred to as a processor). Additionally, as shown in FIG. 3, the controller may be a component of the medical device 12. (Page 9, lines 8-11.)

Moreover, because the core patentable components are present in each of the above embodiment, many of the claims are properly linked with several of the Figures.

Additionally, Applicant submits that the Examiner has not presented the rationale as to why it is believed that the inventions as claimed are distinct. Instead, the Examiner has generally asserted

that the figures within the application are different, and thus a restriction requirement is appropriate. Accordingly, Applicant respectfully requests that the restriction requirement be withdrawn based on a failure to provided reasons why the invention "as claimed" is distinct as required under MPEP §808.

Moreover, a *prima facie* showing has not been made for insisting upon the restriction. Nothing has been represented to the Applicant to show a serious burden if restriction is not required. Therefore, Applicant respectfully requests that the restriction requirement be withdrawn because there would not be a serious burden if restriction is not required.

If the Examiner makes the restriction requirement final, Applicant provisionally elects to prosecute the claims of Group B, at least claims 1-8, 11, 12, 18-22, 24-25, 33-36, 40-41, and 43-44. As such, Applicant requests the claims in Groups A and C-J be withdrawn without prejudice if the restriction is not removed.

Additionally, Applicant submits that claims 1, 4, 20, 33, 34, 40 and 43 are generic and generally relate to a medical treatment apparatus/system that receives a signal, and a processor for processing the signal to control the delivery of medication to the patient.

Upon allowance of a generic claim, Applicant will be entitled to conform all of the claims directed to the non-elected species to be in dependent from or to otherwise include all the limitations of an allowed generic claim as provided by 37 CFR §1.141, and have those claims examined in the present Application.

The Examiner is requested to contact the undersigned if the Examiner has any questions concerning this Reply, or if it will expedite the progress of this application.

Respectfully submitted,

Dated: May 6, 2003

By: _____

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Date of Deposit: May 6, 2003
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

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Sarah J. Goodnight (173997.1)